

**REMARKS**

Claims 1-17 are pending in the application. Claims 1, 3, 5, 9, 11-13, 15, and 16 stand rejected. Claims 1 and 13 are independent claims.

Claims 18-21 are added. The support for claims 18 and 19 can be found in the original claims 7 and 11. The support for claims 20 and 21 can be found in the Detailed Description portion of the specification, at page 8, line 11-14; at page 10, line 7-8; and at page 11, line 12-17.

Claim 2 is amended. The support can be found in Detailed Description portion of the specification, at page 12, line 9-13 and FIG. 5.

Claims 8 and 12 stand rejected under 35 U.S.C. 112, second paragraph, as allegedly being indefinite for including the term “may.”

In response, the Applicant deletes the term “may” from each of claims 8 and 12. The Applicant respectfully requests withdrawal of the rejections.

The Applicant wishes to thank the Examiner for indicating that any one of claims 2, 4, 6-8, 10, 14, and 17 would be allowed if rewritten as an independent claim incorporating all features of the base and any intervening claim.

At this time, the Applicant wishes to defer rewriting any one of claims 2, 4, 6-8, 10, 14, and 17.

Claims 1 and 13 stand rejected under 35 U.S.C. ' 103(a) as allegedly being obvious over Blahut (U.S. 6,778,550) and Koh *et al.* (U.S. Pub. 2004/0022536) (“Koh”).

Claims 1 and 13 recite an Ethernet-PON (Passive Optical Network) comprising, among others, “an OLT (Optical Line Terminal) configured (i) to perform a switching operation on a plurality of digital broadcast/image data received from an external broadcast provider **according to respective broadcast/image selection information transmitted from users.**”

To reject a claim under section 103, the United States Court of Appeals for the Federal Circuit required a showing of **an un rebutted prima facie case of obviousness** (*In re Rouffet*, 149 F.3d 1350, 47 USPQ2d 1453 (Fed. Cir. 1998)). According to the MPEP, the *prima facie* case can be established only if **all of the following three requirements are met** (MPEP 2143).

First, if a rejection is based on a combination of references, **there must be some teaching, suggestion, or motivation, either in the references themselves or in the knowledge available to a person of ordinary skill in the art to combine the references** (MPEP 2143.01). Second, there must be a reasonable expectation of success (MPEP 2143.02). Third, the combination of the references must **teach all features recited in the claim** (MPEP 2143.03).

The Applicant respectfully submits that claims 1 and 13 are patentable, as the third requirement of the *prima facie* case is not established. In particular, even if Blahut and Koh are combined, two references, alone or in combination, do not teach or render obvious all features of the OLT of claims 1 and 13.

In the present Office Action, the Patent Office asserts that Blahut teaches an ATM switching fabric 201 that performs a switching operation (see the present Office Action, item 9, page 3-4; see also *id.*, item 12, at page 9-10). As Blahut teaches that the ATM switching fabric 201 is contained in its OLT, the Patent Office asserts that the OLT of Blahut is equivalent to the OLT of claims 1 and 13 and that Blahut teaches the OLT of claims 1 and 13 (see *id.*, item 9, page 3-4; see also *id.*, item 12, at page 9-10).

At the same time, the Patent Office indicates that Koh does not teach an OLT that is configured to perform a switching operation (*id.*, item 12, page 10, line 5-8).

Blahut, as read by the Applicant, discloses a network system that transmits downstream signals via a TDM scheme. Within the OLT of the system of Blahut, an ATM switching fabric

201 is disposed (FIG. 2). However, nowhere within Blahut is there a disclosure that the ATM switching fabric 201 of Blahut performs the switching operation or any other operation **according to a signal transmitted from the users**. On the contrary, Blahut explicitly states that the ATM switching fabric 201 routes, operates, the ATM cells received from the ATM network **in accordance to with the address of the cell**, to proper OLC (column 5, line 37-41).

As such, Blahut does not disclose or teach an Ethernet-PON (Passive Optical Network) comprising, among others, “an OLT (Optical Line Terminal) configured (i) to perform a switching operation on a plurality of digital broadcast/image data received from an external broadcast provider **according to respective broadcast/image selection information transmitted from users**,” as recited in claims 1 and 13.

Meanwhile, Koh, **as acknowledged by the Patent Office**, does not teach an OLT that is configured “(i) to perform a switching operation on a plurality of digital broadcast/image data received from an external broadcast provider **according to respective broadcast/image selection information transmitted from users**,” as recited in claims 1 and 13 (the present Office Action, item 12, page 10, line 5-8).

As such, Blahut and Koh, alone or in combination, fail to teach the OLT of claims 1 and 13. In the process, the two references, alone or in combination, fail to meet the third requirement of the *prima facie* case of obviousness, and two references do not render claims 1 and 13 obvious. Claims 1 and 13, therefore, are patentable.

The Applicant respectfully submits that claims 1 and 13 are also patentable, as the first requirement of the *prima facie* case **cannot be met**. In particular, there is no reason, motivation, or suggestion to combine the two references.

The Court of Customs and Patent Appeals, the predecessor to the Federal Circuit, held that there is no motivation to combine the references if the proposed combination would change the principle of operation of the references being combined (*In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)).

According to Blahut, its OLT transmits a downstream optical signal to the ONU via **TDM scheme using one wavelength** (see column 4, line 52-53 (disclosing that downstream transmission occurs in a TDM scheme at a 1550 nm wavelength); see also column 1, line 53-58)). Koh, however, discloses that its OLT transmits a plurality of downstream optical signals to the ONU via **WDM scheme using a plurality of wavelengths** (see FIG. 4 (disclosing that the OLT of Koh includes a wavelength multiplexer)).

As such, the combination of the references would change the principle of the operation of Blahut's OLT from that transmits a downstream optical signal to the ONU **via a TDM scheme using one wavelength** to that containing an OLT that transmits a plurality of downstream optical signals **via WDM scheme using a plurality of wavelengths**. At the same time, the combination of the references would change the principle of the operation of Koh's OLT from that transmits a plurality of downstream optical signals to the ONU via a **WDM scheme using a plurality of wavelengths** to that transmits a downstream optical signal via **TDM scheme using one wavelength**.

The Applicant respectfully submits that such change in the operation of the OLTs is not allowed. As such, there is no motivation to combine the references, the third requirement of the *prima facie* case of obviousness is not met, and **two references cannot be combined to render claims 1 and 13 obvious**.

Amendment

Serial No. 10/811,600


In view of the foregoing remark, the Applicant respectfully requests withdrawal of the rejection on claims 1 and 13.

Other claims in this application are each dependent on the independent claims 1 and 13, and believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual consideration of the patentability of each on its own merits is respectfully requested.

A check for \$50.00 is enclosed herein to cover 1 extra dependent claim.

Should the Examiner deem that there are any issues which may be best resolved by telephone, please contact Applicant's undersigned representative at the number listed below.

Respectfully submitted,

  
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